Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Access Charge Reform	)	CC Docket No. 96-262
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157

OPPOSITION OF BELLSOUTH, QWEST, SBC, AND VERIZON TO MOTION OF AT&T FOR A STAY OF THE *PRICING FLEXIBILITY ORDER* PENDING JUDICIAL REVIEW

Almost 15 months after the Commission's *Pricing Flexibility Order*[1] was released, AT&T Corp. ("AT&T") now asks the Commission for a stay of that order pending the outcome of judicial review proceedings in the D.C. Circuit.[2] AT&T simply rehashes the same meritless arguments it raised in the *Pricing Flexibility* proceeding, in its briefs in the D.C. Circuit, and in its earlier motion for a so-called "moratorium" on pricing flexibility petitions pending judicial review. *See* Attach. A. Once again, AT&T's arguments must be rejected.

[1] Fifth Report and Order and Further Notice of Proposed Rulemaking, *Access Charge Reform*, 14 FCC Rcd 14221 (1999) ("*Pricing Flexibility Order*").

[2] According to AT&T, WorldCom "joins in and supports" the stay motion. *See* Motion at 1 n.2.

AT&T filed its motion on November 21, the Tuesday before Thanksgiving, and served it solely by mail. None of the undersigned companies — BellSouth, Qwest, SBC, and Verizon (collectively "respondents") — was even aware of the motion until Monday, November 27, and they first learned of its existence that day because of its distribution by a vendor. Though the timing of this stealth filing suggests an attempt to impede timely responses, respondents do not request an extension of the 7-day response time because AT&T's baseless arguments, amounting to an untimely frontal assault on the merits of the *Pricing Flexibility Order*, raise nothing new and can be readily dismissed.

In considering whether a stay pending appeal is appropriate, this Commission applies the well-established four-factor test of *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958). This test requires consideration of "(1) the likelihood that the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay." *See* Memorandum Opinion and Order, *Station KDEW(AM)*, 11 FCC Rcd 13683, 13685, ¶ 6 (1996). "A petitioner must satisfy each of these four tests in order for the Commission to grant a stay." Order, *Petition of the Connecticut Department Public Utility Control to Retain Regulatory Control of Wholesale Cellular Service Providers in the State of Connecticut*, 11 FCC Rcd 848, 853, ¶ 14 (1995). Indeed, the movant "must make a convincing showing" with respect to each factor. Order, *Implementation of Section 309(j) of the Communications Act*, Gen. Docket No. 90-264, FCC 99-157, 1999 WL 446589, ¶ 9 (rel. July 2, 1999) ("*Section 309(j) Order*").

AT&T does not come close to demonstrating either that it is likely to prevail on the merits or that the balance of equities favors a stay. Its motion should therefore be denied.

First, AT&T has failed to demonstrate that it is likely to succeed on the merits. Indeed, as respondents noted in their opposition to the moratorium request, the Commission has considered and rejected each and every one of its arguments on the merits, both in the *Pricing Flexibility Order* itself and in its brief in the D.C. Circuit. *See* Brief for Federal Communications Commission, *MCI WorldCom, Inc. v. FCC*, Nos. 99-1395, 99-1404 & 99-1472 (D.C. Cir. filed Sept. 8, 2000) ("FCC Br.").[3] And this Commission has made clear that a party seeking a stay pending judicial review cannot establish a likelihood of success on the merits by relying "principally on arguments already considered [and rejected] . . . on the merits." *Section 309(j) Order* ¶ 15. That principle alone bars any finding of likely success here.

In any event, it is clear that AT&T's claims are meritless. Although AT&T once again makes the exaggerated claims that the *Pricing Flexibility Order* "provides for the elimination of rate regulation," is a "radical new approach to deregulation," and results in the "essentially *nationwide* deregulation" of access services (Motion at 3, 7, 8), the *Pricing Flexibility Order* is, in fact, but another measured step in the Commission's effort over the past two decades, as competition has increased, to eliminate regulations when their costs outweigh their benefits so that market forces may gradually displace regulatory fiat in setting access charges. As the Commission explained in its brief to the D.C. Circuit, even after receiving Phase II relief, which is more generous than Phase I relief, a carrier remains subject to statutory obligations to charge just, reasonable, and nondiscriminatory rates and must continue to file tariffs. And parties may challenge the carrier's tariff filings in complaint proceedings. FCC Br. at 26-28. In addition, both Phase I and Phase II relief are granted only after the carrier demonstrates that markets are sufficiently competitive. *Id.* at 28-36.

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[3] Although AT&T now includes some of those arguments in a declaration by Robert D.

Moreover, although AT&T repeats its contention that a local exchange carrier ("LEC") "will face regulation virtually identical to that now applied to 'non-dominant' carriers," Motion at 4-5, the relief that the Commission has actually granted is far less significant than the relief enjoyed by non-dominant carriers. *See Pricing Flexibility Order* ¶ 151 ("Upon a Phase II showing, we will not grant incumbent LECs all the regulatory relief we afford to non-dominant carriers."). Even under Phase II relief, for example, incumbent LECs, unlike non-dominant carriers, must still file generally available tariffs. *Id.* And the relief granted is limited to certain services, in certain areas. *Id.* Under Phase I relief, carriers are still subject to price caps for their generally tariffed access service offerings. The Commission requires carriers to remove contract tariffs from price caps, to safeguard the generally tariffed offerings, *id.* ¶ 24, and the Commission does not permit an incumbent LEC to offer a contract tariff to an affiliate unless and until an unaffiliated customer first purchases service pursuant to that contract. *Id.* ¶ 129.

The Commission's determinations will be accorded deference on appeal: its policy judgments were sound and carefully reasoned, and its findings were both reasonable and based on substantial evidence in the record. The Commission "recognized that continuing to impose regulations that were no longer necessary was contrary to the public interest because unnecessary regulations perpetuate inefficiencies in the market and interfere with the development and operation of markets as competition develops." FCC Br. at 17. The Commission's triggers — contrary to AT&T's claims, *see* Motion at 9-12 — "consider the extent to which competitors have invested in competitive facilities and established collocation arrangements within an MSA." FCC Br. at 17. These collocation triggers — which require a showing that at least one competitor relies on alternative transport facilities and which *underestimate* competition because

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Willig, the substance of those arguments remains precisely the same.

they ignore competitive carriers that have built their own networks as well as carriers that use resale and unbundled network elements — represent "irreversible, or 'sunk,' investment in facilities" that will prevent incumbents from engaging in exclusionary pricing. *Pricing Flexibility Order* ¶ 79. And the specific thresholds adopted by the Commission have ample support in the record. *See id.* ¶¶ 90-99, 146-152. The Commission's selection of MSA-wide relief is also likely to be upheld because it was based on the Commission's expert determination that MSA-wide relief "best reflect[s] the scope of competitive entry" and that defining geographic areas smaller than MSAs would result in delay and increased expense that would unnecessarily prolong inefficient and harmful regulatory requirements. *See id.* ¶ 74.

Second, AT&T has failed to show that the balance of equities weighs in favor of a stay. "A party moving for a stay is required to demonstrate that the injury claimed is both certain and great." *CUOMO v. NRC*, 772 F.2d 972, 976 (D.C. Cir. 1985) (internal quotation marks omitted). AT&T has failed to meet either standard. Although AT&T claims that the *Pricing Flexibility Order* will "freeze competitive entry in the access market" (Motion at 2; Decl. of Robert D. Willig), the opposite is true: the order promotes further competition by relaxing inefficient regulations that are counterproductive and that prevent incumbents from competing. *Pricing Flexibility Order* ¶ 19. And, because the Commission does not grant flexibility until an incumbent can show that the competitive triggers are satisfied, it is unlikely that AT&T or other access customers will suffer any injury. Indeed, the triggers are specifically designed to prevent exclusionary pricing behavior. *See id.* ¶ 79. Access customers should *benefit* from the flexibility granted to LECs, because it will result in a more efficient marketplace. *See id.* ¶ 144. However, if improper pricing were to occur, sophisticated purchasers of access services such as AT&T know how to seek expedited administrative relief through the Commission's complaint process.

And, if they can show that they have suffered injury from an unlawful rate, they can seek damages. *See* 47 U.S.C. §§ 206, 207, 208.

To the extent AT&T claims it is harmed in its role as an access *competitor* as opposed to a *customer* — which is plainly the real reason that AT&T opposes the *Pricing Flexibility Order* — it is essentially claiming that it will suffer losses as a result of increased competition. *See* Motion at 16. This "harm" is obviously outweighed by the harm that the public suffers when competition is stifled. Indeed, the Telecommunications Act of 1996 is designed to promote competition, not individual competitors, so "harm" caused by competition is not a legitimate basis for a stay under the relevant precedent. And, although AT&T contends that its "harm" will be most severe in areas in which relief has been granted under 47 U.S.C. § 271, *see* Motion at 17, AT&T ignores the fact that incumbents are not permitted to discriminate between affiliated and non-affiliated long-distance providers. Accordingly, there is no basis for assuming that the patently unlawful "price squeezes" predicted by AT&T would be successful and escape Commission enforcement.

In contrast, the public and the LECs themselves face truly irreparable losses, without any meaningful retrospective recourse, if LECs are deprived of the pricing flexibility they need to respond to competition. *Pricing Flexibility Order* ¶ 92. If LECs cannot reduce their rates in lower-cost areas and offer the same volume and term discounts as their competitors, LECs are inhibited in their ability to compete for customers in the marketplace and they cannot recover their lost revenues. The public, in turn, "is deprived of the benefits of more vigorous competition." *Id.*

Because AT&T falls far short of satisfying the standards governing a motion for a stay pending appeal, its motion should be denied.

Respectfully submitted,

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Washington, DC 20554

In the Matter of	)	
Access Charge Reform	)	CC Docket No. 96-262
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
BellSouth Telecommunications, Inc.'s Petition for Pricing Flexibility for Special Access and Dedicated Transport	)	CCB/CPD File No. 00-20
BellSouth Telecommunications, Inc.'s Petition for Pricing Flexibility for Switched Access	)	CCB/CPD File No. 00-21

OPPOSITION OF BELLSOUTH, QWEST, SBC, AND VERIZON TO MOTION OF AT&T AND WORLDCOM FOR A MORATORIUM ON PRICING FLEXIBILITY PETITIONS PENDING JUDICIAL REVIEW

AT&T Corp. ("AT&T) and WorldCom, Inc. ("WorldCom") ask the Commission for a "moratorium" on petitions under the *Pricing Flexibility Order*[1] until 60 days after the D.C. Circuit rules on their pending petitions for judicial review of that order. Because the relief they seek is in all material respects identical to the relief normally sought in a petition for a stay pending judicial review, the Commission must evaluate the request in light of the standards

[1] Fifth Report and Order and Further Notice of Proposed Rulemaking, *Access Charge Reform*, 14 FCC Rcd 14221 (1999) ("*Pricing Flexibility Order*").

applicable to such stay petitions. Under those standards, the motion falls woefully short on every count.

In considering whether a stay pending appeal is appropriate, this Commission applies the well-established four-factor test of *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958), under which it considers "(1) the likelihood that the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay." *See* Memorandum Opinion and Order, *Station KDEW(AM)*, 11 FCC Rcd 13683, 13685, ¶ 6 (1996). "A petitioner must satisfy each of these four tests in order for the Commission to grant a stay." Order, *Petition of the Connecticut Department Public Utility Control*, 11 FCC Rcd 848, 853 ¶ 14 (1995). Indeed, the movant "must make a convincing showing" with respect to each factor. Order, *Implementation of Section 309(j) of the Communications Act*, Gen. Docket No. 90-264, FCC 99-157, 1999 WL 446589, ¶ 9 (rel. July 2, 1999) ("*Section 309(j) Order*").

AT&T and WorldCom have made no showing at all — much less a convincing showing. Because they have satisfied *none* of the four factors, their motion should be denied.

First, AT&T and WorldCom make no assertion that they are likely to succeed on the merits, and for good reason: the Commission has considered and rejected each and every one of their arguments on the merits, both in the *Pricing Flexibility Order* itself and in its brief in the D.C. Circuit. *See* Brief for Federal Communications Commission, *MCI WorldCom, Inc. v. FCC*, Nos. 99-1395, 99-1404 & 99-1472 (D.C. Cir. filed Sept. 8, 2000) ("FCC Br.") (attached). And this Commission has made clear that a party seeking a stay pending judicial review cannot establish a likelihood of success on the merits by relying "principally on arguments already

considered [and rejected] on the merits." *Section 309(j) Order* ¶ 15. That principle alone bars any finding of likely success here.

Even aside from that salutary rule, it is clear that AT&T's and WorldCom's claims are meritless. Although they claim that the *Pricing Flexibility Order* grants an "extraordinary and unprecedented breadth of relief" and that the Commission has removed "all rate regulation," Motion at 5, 7, the *Pricing Flexibility Order* is, in fact, but another modest step in the Commission's effort over the past two decades, as competition has increased, to eliminate regulations when their costs outweigh their benefits and to allow market forces gradually to displace regulatory fiat in setting access charges. As the Commission explained in its brief to the D.C. Circuit, even after receiving Phase II relief, which is more generous than Phase I relief, a carrier remains subject to statutory obligations to charge just, reasonable, and nondiscriminatory rates and must continue to file tariffs. And parties may challenge the carrier's tariff filings in complaint proceedings. FCC Br. at 26-28. In addition, both Phase I and Phase II relief are granted only after the carrier demonstrates that markets are sufficiently competitive. *Id.* at 28-36.

The Commission's determinations will be accorded deference on appeal: its policy judgments were sound and carefully reasoned, and its findings were both reasonable and based on substantial evidence in the record. In the face of that reality, AT&T and WorldCom are forced to assert — without any explanation or support — that they are entitled to relief "*regardless* of the likelihood that AT&T, WorldCom and Time Warner will succeed in the Court of Appeals." Motion at 5, 7. But the Commission's well-established test for granting a stay requires a showing of likely success. Indeed, it could not sensibly be otherwise. Our system of administrative law rests on the presumption that agency orders are lawful and can be

implemented immediately. Only when a party can show that this presumption is invalid in a particular case — and can make a convincing showing at that — must the agency forbear from carrying out what it believes to be its congressional mandate. Because AT&T and WorldCom do not even attempt such a showing, their motion must be denied.

Second, even if AT&T and WorldCom had succeeded in showing a likelihood of success on the merits, they would still not be entitled to a stay because they have failed to show that they will suffer any irreparable harm in the absence of the relief they request. "A party moving for a stay is required to demonstrate that the injury claimed is both certain and great." *CUOMO v. NRC*, 772 F.2d 972, 976 (D.C. Cir. 1985) (internal quotation marks omitted). AT&T and WorldCom have done neither. Although they vaguely claim that it would be "extremely burdensome . . . for all parties to attempt to undo arrangements, including contract tariffs, entered into under" the *Pricing Flexibility Order*, Motion at 5, they make no claim that they will suffer injury of any sort in the interim. And they do not begin to demonstrate that the inconvenience that may follow from a hypothetical and unlikely vacatur of the Commission's order some months from now would constitute the kind of "certain and great" irreparable harm that must be shown for a stay.

Third, AT&T and WorldCom have similarly failed to show that others would be harmed in the absence of a stay. AT&T and WorldCom claim that the Commission would have to "consume valuable resources to conduct proceedings both to reestablish appropriate rates and price cap indices" and "to ensure that all customers were provided appropriate refunds." Motion at 7. But this "harm" is inherent in *all* cases in which an order is vacated on appeal. AT&T and WorldCom have made no effort to argue that the Commission would face any unusual burden on remand in the unlikely event of a vacatur. If anything, the private equities militate against the

relief requested. If AT&T and WorldCom were to have their way, ILECs would suffer certain and irreparable injury because they would be unable to obtain pricing flexibility, even when the competitive circumstances so warrant, leaving them and their customers exposed to competitive assaults to which they would be powerless to respond.

Finally, granting a stay is contrary to the public interest. Although CAPs (including AT&T and WorldCom affiliates) reap economic gain when regulations restrict LECs' ability to meet the competition, consumers suffer under a regime that fosters pricing umbrellas and distorted incentives. That is one of the reasons why the Commission granted LECs additional flexibility in the first place — to ameliorate these market distortions and allow consumers to enjoy lower prices. It is also why the Commission has previously rejected requests for stays in its access-charge reform proceedings. "In a case such as this one, which involves significant and much needed reforms of access charge and price cap regulation, the burden of showing equitable entitlement to a stay is particularly heavy because of the strong public interest in implementing those reforms." Order, *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; End User Common Line Charges*, 12 FCC Rcd 10175, 10187, ¶ 27 (1997). It is therefore unsurprising that AT&T and WorldCom make no attempt to argue that a stay would further the public interest.

Indeed, AT&T and WorldCom do not even bother to cite *any* of the four relevant standards, much less attempt to meet them. Instead, in an obvious attempt to avoid having the Commission apply its settled and applicable precedent — which would fatally condemn their claim — AT&T and WorldCom have concocted a new name for a very old form of relief. They style their petition one for a "moratorium" on pricing flexibility petitions pending judicial review of the *Pricing Flexibility Order*. But, labels aside, what they seek is indistinguishable from a

traditional stay pending judicial review: they ask the Commission, in effect, to suspend the effectiveness of *Pricing Flexibility Order* pending the outcome of the D.C. Circuit's review. A stay by any other name — whether a "moratorium," a "hold," a "freeze," or anything else — is still a stay. And this Commission has settled standards for determining whether such a stay is appropriate pending judicial review.

Not a single "moratorium" case cited by AT&T and WorldCom to support their motion involved a "moratorium" pending judicial review. Rather, each of those cases involved an agency determination that a moratorium on applications was appropriate because a pending agency rulemaking or public inquiry could change the substantive standard that applied to the application, or because the agency needed a temporary freeze in order to implement a new regime consistent with the policies of the Act it was implementing. *See*:

- *Kessler v. FCC*, 326 F.2d 673, 685 (D.C. Cir. 1963) (freezing acceptance of applications pending the adoption of new rules on the subject in order to assure that "the objectives of the contemplated rule-making proceeding would not be frustrated");

- *Harvey Radio Labs., Inc. v. United States*, 289 F.2d 458, 460 (D.C. Cir. 1961) (freezing applications until completion of an agency rulemaking because "'piecemeal' consideration of [individual] requests . . . might well prejudice . . . and defeat the purposes of the program");

- *Mesa Microwave, Inc. v. FCC*, 262 F.2d 723, 725 (D.C. Cir. 1958) (granting a freeze order on several applications pending the Commission's "general [agency] inquiry to determine what general program it should follow in dealing with . . . [a] multiplicity of problems");

- *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (subjecting opposed translator applications to a processing freeze pending the outcome of agency rulemaking in order to "prepar[e] for timely implementation of the low power television service" and "assur[e] that grants of traditional translator licenses would not interfere with the future institution of that service");

- *Western Coal Traffic League v. STB*, 216 F.3d 1168, 1170, 1173 (D.C. Cir. 2000) (imposing moratorium on filing of railroad merger applications in

"extraordinary circumstances" of pending agency inquiry "on the future of the railroad industry and the proper role of mergers in shaping that future" because it is "administratively necessary in order to realize the broader goals of the . . . statute");

- *Permian Basin Area Rate Cases*, 390 U.S. 747, 780-81 (1968) (imposing moratorium on rate proceedings pending implementation of a new regional ratemaking scheme in order to "facilitate orderly administration and satisfactorily assure the protection of producers' rights");

- *Krueger v. Morton*, 539 F.2d 235, 240 (D.C. Cir. 1976) (instituting temporary suspension of issuance of prospecting permits "until an improved system could be worked out to better meet and reconcile" the objectives of the Mining and Minerals Policy Act);

- *Westinghouse Electric Corp. v. United States Nuclear Regulatory Comm'n*, 598 F.2d 759, 762 (3d Cir. 1979) (suspending decisionmaking process regarding proposals for recycling of spent nuclear fuel and use in nuclear reactors of plutonium in "deference to President Carter's stated objective of deferring domestic plutonium recycling while the United States initiated a multinational evaluation of alternative fuel cycles that would pose a lesser risk of international proliferation of nuclear weapons").

AT&T and WorldCom, in contrast, make no argument that a "moratorium" on applications is necessary to allow the Commission to complete a proceeding that would affect the applicable standards for pricing flexibility, or in any other respect to further the policies of the Communications Act. Indeed, the Commission already conclusively determined in the *Pricing Flexibility Order* what is necessary to further the goals of the Act. There is nothing left to decide with which a pending pricing flexibility application would interfere. AT&T's and WorldCom's proposed "moratorium" is designed solely to prevent the *Pricing Flexibility Order* from being implemented pending judicial review. Thus, unlike the moratorium cases upon which they rely, AT&T's and WorldCom's request is plainly one for a stay pending judicial review. And, as noted, they cannot meet the standard for such a stay.

Even AT&T and WorldCom seem to recognize, albeit grudgingly, that their request is tantamount to a run-of-the-mill petition for a stay pending judicial review. They bury in a

footnote the implausible assertion that they did not seek a stay of the *Pricing Flexibility Order* pending review "*as an initial matter*, largely because there were no pending pricing flexibility petitions at that time." Motion at 4 n.4 (emphasis added). But it was entirely clear at the time the *Pricing Flexibility Order* was issued, and when the petitions for review were filed, that pricing flexibility petitions would soon be filed. AT&T and WorldCom themselves were aware of LEC claims in January 2000 that LECs could qualify for Phase I and Phase II relief in several markets. *See* Brief of Petitioners and Supporting Intervenors at 21, *MCI WorldCom, Inc. v. FCC*, Nos. 99-1395, 99-1404 & 99-1472 (D.C. Cir. filed Sept. 8, 2000) (citing Special Access Fact Report filed by LECs on January 19, 2000). In any event, the standard for granting a stay pending judicial review does not change depending on when the request is filed. The standard is the same now as it would have been had AT&T and WorldCom sought the stay immediately after release of the *Pricing Flexibility Order*.

AT&T and WorldCom can call it whatever they wish, but their motion seeks relief indistinguishable from a stay pending judicial review. Under the established standards for granting such relief, their motion must be denied.

Respectfully submitted.

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September 15, 2000

CERTIFICATE OF SERVICE

I, Sylena L. Slaughter, do hereby certify that on this 15th day of September, 2000, a copy of the foregoing Opposition of BellSouth, Qwest, SBC, and Verizon to Motion of AT&T and WorldCom For A Moratorium On Pricing Flexibility Petitions Pending Judicial Review was served by hand delivery or Federal Express, on the parties named below.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NO. 99-1395 (AND CONSOLIDATED CASES)

MCI WORLDCOM, INC., *et al.*,

PETITIONERS,

V.

FEDERAL COMMUNICATIONS COMMISSION
AND UNITED STATES OF AMERICA,

RESPONDENTS.

ON PETITIONS FOR REVIEW OF AN ORDER OF THE
FEDERAL COMMUNICATIONS COMMISSION

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CETIFICATE AS TO PARTIES, RULINGS AND RELATED CASES

A. Parties and Amici

Because this case involves direct review of an informal rulemaking, a list of parties, intervenors and *amici* is not supplied.

All parties, intervenors and *amici* appearing before this Court are listed in the Brief for Petitioners and Supporting Intervenors.

B. Ruling Under Review

Fifth Report and Order and Further Notice of Proposed Rulemaking, *In re Access Charge Reform*, 14 FCC Rcd 14221 (1999) (JA 232).

C. Related Cases

AT&T Corp. et al. v. FCC, Nos. 99-1535 *et al.*, present challenges to an order closely related to the one at issue here. By order of the Court dated May 25, 2000, both cases are to be briefed and argued on the same schedule and before the same panel of this Court.